



City of Lowell - Planning Board

Planning Board Meeting Minutes

Monday, May 16, 2022 6:30 p.m.

Mayor's Reception Room, 2nd Floor, City Hall

City of Lowell, 375 Merrimack Street, Lowell, MA

Remote Participation Optional via Zoom

Note: These minutes are not completed verbatim. For a recording of the meeting, visit www.ltc.org

Members Present

Thomas Linnehan, Chairman

Gerard Frechette, Vice Chairman

Robert Malavich, Member

Caleb Cheng, Member

Members Absent

Richard Lockhart, Member

Sinead Gallivan, Associate Member

Others Present

Dylan Ricker, Associate Planner

A quorum of the Board was present. Chairman Linnehan called the meeting to order at 6:36 pm.

I. Minutes for Approval

June 6, 2022 Meeting Minutes

G. Frechette motioned, and C. Cheng seconded the motion to approve the June 6, 2022 meeting minutes. The motion passed unanimously, (4-0).

II. Continued Business

Special Permit: 22 Bellevue Street 01851

Magdi Mikhael has applied to the Lowell Planning Board to convert the existing two-family structure at 22 Bellevue Street into a three-family structure. The subject property is located in the Traditional Neighborhood Multi-Family (TMF) zoning district. The proposal requires Special Permit approval from the Planning Board per Article 12.1(c) to expand a residential structure to three (3) units.

On Behalf:

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

T. Linnehan said 4 board members are not present that were present at the last meeting and therefore there is not a quorum of members that can vote on the matter tonight. T. Linnehan noted the Variances were denied as the applicant did not appear before the ZBA.

Motion:

T. Linnehan motioned, and C. Cheng seconded the motion to continue the petition to the July 18, 2022 Planning Board meeting. The motion passed unanimously, (4-0).

Special Permit: 50 Wentworth Avenue 01852

Thanh Pham has applied to the Lowell Planning Board for Special Permit approval to subdivide the existing lot at 50 Wentworth Avenue and construct a new single-family home on the newly created lot. The subject property is located in the Suburban Single-Family (SSF) zoning district and requires Special Permit approval from the Lowell Planning Board pursuant Section 5.1.1(7) to reduce the minimum frontage by twelve (12) feet.

On Behalf:

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

T. Linnehan said that 50 Wentworth Avenue would be continued to the July 18, 2022 meeting as a quorum of members that can vote are not present.

Motion:

T. Linnehan motioned, and G. Frechette seconded the motion to continue the application to the July 18, 2022 meeting. The motion passed unanimously, (4-0).

III. New Business

Tree Hearing: 439 Butman Road 01852

In accordance with M.G.L. Ch. 87.5 and Chapter 260 of the Lowell Code of Ordinances, the Lowell Planning Board will hold a public hearing to hear all interested persons regarding the removal of two (2) public shade trees located at 439 Butman Road. The trees are 30" to 36" in diameter, and are necessary

for removal as they are heaving the roadway 6" to 8" and they are located close to the edge of the pavement.

On Behalf:

Mark Byrne, Interim DPW Director

M. Byrne said the City is doing road improvements and trees at the property are in the way of the paving. M. Byrne said they spoke with the homeowner and they can work with residents to install additional trees. M. Byrne said if damage is done to a nearby wall then the City will repair the walls.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

G. Frechette asked about the tree removal and its proximity to the wall. M. Byrne said the wall can be repaired if damaged and noted the contractor is a tree removal specialist and they are aware of the proximity to the wall. M. Byrne added they will repair if any damage is done to the wall.

R. Malavich asked if trees will be replaced. M. Byrne said they will work with homeowners as they would have to be placed on private property since there is not a location to replace on City property or ROW.

Motion:

R. Malavich motioned, and C. Cheng seconded the motion to approve the removal of two (2) trees. The motion passed unanimously, (4-0).

Tree Hearing: 647 Middlesex Street 01851

In accordance with M.G.L. Ch. 87.5 and Chapter 260 of the Lowell Code of Ordinances, the Lowell Planning Board will hold a public hearing to hear all interested persons regarding the proposed removal of two (2) public shade trees adjacent to the Lowell Boys and Girls Club at 647 Middlesex Street. The tree removal will allow the construction project at the Boys and Girls Club to continue moving forward.

On Behalf:

Mark Byrne, Interim DPW Director

M. Byrne said there are 2 trees in the area of Clemente Park that must be removed for public safety access to the areas of the Boys and Girls Club improvements. M. Byrne added there are additional trees that will be on their property and added that trees will be added to the park area to replace the removed trees.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

T. Linnehan expressed support.

R. Malavich said the plans show 4 trees to be removed and the letter states 2 will be removed, and asked for clarification. M. Byrne said only 2 trees will be removed.

Motion:

R. Malavich motioned, and G. Frechette seconded the motion to approve the removal of two (2) trees. The motion passed unanimously, (4-0).

Zoning Amendment: Section 4.3.3 – “Home Occupation – As of Right”

The Lowell Planning Board will hold a public hearing to hear all interested persons relative to an ordinance to amend “The Code of Ordinances City of Lowell Massachusetts”, with respect to Chapter 290, thereof entitled “Lowell Zoning Code”. The proposed amendment would amend Section 4.3.3 of the Lowell Zoning Ordinance entitled “Home Occupation – As of Right” to allow for more than one (1) home occupation on a lot.

On Behalf:

Christine McCall, DPD Director

C. McCall said the amendment was proposed as a result of a prior motion by Councilor Leahy. A resident contacted the councilor because they could not operate their business from their home because there was already a home occupation at the multi-family property. Their business was only located at the address for bookkeeping purposes and there was no visual impact of the businesses.

C. McCall said she does not see any negative impacts, the change will allow home businesses that may need multiple businesses at a property but have no visual impact on the neighborhood. C. McCall noted this does not change any requirements other than the number of home occupations allowed. C. McCall said does not eliminate single-family zoning, and just allows properties to have multiple home occupations on site.

Speaking in Favor:

None

Speaking in Opposition:

Robert Hunt, 48 Florence Avenue

R. Hunt said he believes there should be a cap on the number of businesses allowed at home. R. Hunt said he has a neighbor with 2 businesses run out of their home. R. Hunt said there should be a cap of 2 or 3 businesses. R. Hunt said his neighbor gets FedEx and UPS deliveries.

Discussion:

T. Linnehan asked if the City Council has set a date for their public hearing. C. McCall said it is scheduled for the July 12th meeting.

C. McCall noted that a cap of 3 is not a fair number for a cap because there are multi-family properties this would impact. C. McCall added that this neighbor that was referred to may not be in compliance with the Zoning Ordinance and their home occupation may need a Special Permit from the ZBA.

R. Malavich said it would make more sense to cap home occupations by dwelling unit rather than by lot. R. Malavich suggested limiting this by dwelling unit. C. McCall explained an example of a business run out of one unit which required multiple bank accounts, this requires multiple business certificates from the City and home occupation permits. A cap on home occupations by dwelling unit could still restrict this business's ability to open appropriate accounts. C. McCall added nearby communities do not impose a cap on compliant home occupations.

T. Linnehan asked about a scenario in which a husband and wife each have a home occupation, imposing a cap would limit their ability to run the businesses out of their home.

R. Hunt said if there is no cap it will run out of control, and if the cap is too low it can be addressed later.

G. Frechette explained a situation of an illegal home occupation at a neighbor's property and said it is uncomfortable to report a neighbor, and noted this is a separate issue. G. Frechette said regulations do not reference deliveries. G. Frechette noted it would not be uncommon for a couple of businesses to be running out of a home that are unnoticeable to the outside.

G. Frechette asked if the Council Subcommittee discussed a cap, C. McCall said this was not discussed. C. McCall explained the differences between home occupations by right and home occupations by special permit. C. McCall said this section will not change and the uses which are unnoticeable to the outside are the only ones impacted. C. McCall added there would be no customer trips or exterior storage. C. McCall added there are ways for residents to anonymously report zoning violations and said the City does not have enough staff to drive around the City seeking out unreported zoning violations.

C. Cheng said he had concerns about home occupations without a cap and noted enforcement is hard as homes can have deliveries too. C. Cheng said there could be a situation in which someone rents out their mailbox to businesses. C. Cheng said a cap per dwelling unit makes more sense.

T. Linnehan said there should be some type of cap imposed by dwelling unit. T. Linnehan said recommendations can be added to the Board's overall recommendation.

G. Frechette expressed support for adding the recommendation that a cap per dwelling unit be included.

R. Hunt said that if there is not a cap then you can never undo it.

Motion:

G. Frechette motioned, and C. Cheng seconded the motion for a POSITIVE recommendation with the following condition:

(1) The Council should consider a reasonable cap on home occupations per dwelling unit.

The motion passed unanimously, (4-0).

III. Other Business

V. Notices

VI. Further Comments from Planning Board Members

G. Frechette said a presentation will be made at the July 12th City Council meeting regarding the heat island effect. G. Frechette said the Sustainability Council will make a presentation on the impacts, specifically on the Downtown and Lower Highlands neighborhoods, and it will discuss the importance of retaining existing trees and planting new ones. G. Frechette said he would attend the meeting.

VII. Adjournment

G. Frechette motioned, and C. Cheng seconded the motion to adjourn. The motion passed unanimously, (4-0). The time was 7:27 PM.